

The Aboriginal Peoples of Newfoundland and Labrador and Confederation

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The Aboriginal Peoples of Newfoundland and Labrador and Confederation

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IN 1949 THE ABORIGINAL PEOPLES of Newfoundland and Labrador entered the Canadian Confederation under a cloud of uncertainty. It had been the intention of both Canadian and Newfoundland negotiators of the terms of union that the federal government would directly administer the new province's aboriginal peoples, as was generally the case in the rest of Canada. But at the eleventh hour this arrangement was set aside in favour of some form of provincial administration, the details to be decided later.

Whatever the political motives for this switch, there were some good public policy reasons to seek an alternative to extending federal aboriginal administration. At that time Canadians were beginning to question existing aboriginal policy. It was not succeeding in its stated aim of integrating Indians and Inuit into the mainstream of Canadian society, and it could be argued that its heavy-handed approach had become a prime cause of social problems that were developing within aboriginal society. Newfoundland, on the other hand, had historically ignored aboriginal people, and so had acquired none of the legacy of this style of management of aboriginal issues. In Labrador, but less so on the island, aboriginal people had even managed to retain some degree of autonomy. The opportunity existed for Canada and Newfoundland to pioneer a better way of dealing with aboriginal peoples.

However, this opportunity was not taken advantage of, and after Confederation matters were allowed to drift. The initial agreement to institute federal jurisdiction was set aside, but the federal funding arrangement that was supposed to be put in its place did not materialise for several years. In 1954 a preliminary agreement was reached, but only for funding medical services, and for a portion of some capital expenditures. Not until 1964 did federal funds become available for a more general

range of government services, to be administered by the province. However, the level of funding was not generous compared to the provision being made at the time for comparable aboriginal communities elsewhere in Canada. Moreover, rather than avoiding past Canadian mistakes, the policy suffered from the same underlying flaws of paternalism and assimilationism as did the Indian Act, but without the same variety of programs, the formal recognition of aboriginal peoples and the enhanced level of fiscal support that direct federal administration would have provided.

CANADIAN POLICY TOWARDS ABORIGINAL PEOPLES BEFORE 1949.

In Canada, during the first few centuries following contact with Europeans, the Inuit remained largely isolated, but Indians were, in general, a force to be reckoned with. They were of strategic importance to colonial authorities, both French and English, particularly in military and trade issues. This situation only began to change in the late 18th and the early 19th centuries, with the arrival of substantial numbers of European settlers in the Maritimes and Upper Canada. Indians soon found themselves transformed from independent peoples with some influence over colonial authorities to refugees in their own land, outnumbered by newcomers, and no longer able to support themselves as they had always done. Many Euro-Canadians came to believe that Indians as a race were dying out.

Under these circumstances a new colonial aboriginal policy emerged, no longer based on seeking accommodation with Indians. Except for those living in the north, where hunting and trapping continued to be a viable way of life, the new policy's central feature was the settlement of Indians onto reserves. In contrast to the western USA, where the reservations were large enough for entire tribes to be settled, Canadian reserves were small residential plots in scattered locations. Largely for administrative convenience, sub-groups of formerly nomadic Indians, known as "bands," small enough so as not to pose the least threat of rebellion, were located on these reserves. To protect Indians from exploitation, the reserves effectively limited contact with settlers. From the missionary perspective, Indians were on reserves to be "civilized," that is, transformed from pagans to Christians, and from nomadic hunters to farmers.

Officials throughout much of the British Empire believed that the interests of indigenous peoples, especially on issues like land and natural resources, were fundamentally opposed to those of the settlers, and that conflicts between the two were to be avoided if possible (Merrivale 1861). Post-colonial federations like Canada inherited these attitudes. The provinces were seen as representing the settlers' most immediate interests, and to counter this, particularly where the indigenous population was an unrepresented minority, the federal level was given

special fiduciary responsibility for them. In Canada, moreover, the federal level also took on the responsibility to fulfill the terms of any treaties signed with aboriginal peoples before Confederation, and the obligation to settle any outstanding aboriginal title, as laid down by the royal proclamation of 1763. These obligations were eventually discharged in Ontario and the West with the "numbered" treaties and the reserves. In much of Québec and the Maritimes, reserves were only established later, without any land cession treaties being concluded. Because of these special circumstances, the British North America Act of 1867 gave the federal government exclusive jurisdiction over aboriginal peoples.

The federal Indian Act became the central mechanism for carrying out these responsibilities and for giving effect to the new administrative policy. Initially a compilation of pre-1867 colonial legislation, the act was amended periodically to make it more and more restrictive, until the minister and the Indian agents under him came to have dictatorial control over almost every aspect of Indian life. After the Northwest uprising of 1885 a restrictive pass system was introduced. Indians had neither the vote nor the right to possess alcohol, were prohibited from participating in traditional rituals and dances, and eventually even from wearing aboriginal clothing in public. In the 1920s policy moved against Indian aspirations for self-determination. Indian leaders were deposed if they did not follow government wishes. In 1924 the Indian Act was amended to prevent the use of band funds to pursue land claims, and in 1927 it was made illegal for Indians to solicit outside funds for this purpose (Leslie, Maguire and Moore 1978).

By 1949, after eighty years, this policy was getting nowhere. The stated aim was to "civilize" Indians — that is, to prepare them for life within Euro-Canadian society outside the reserve. Indians were encouraged to apply to become "enfranchised," to give up their Indian status, leave the reserve and take on the "privilege" of being ordinary Canadian citizens. Yet despite all the incentives, few Indians actually chose to do so, although many had their Indian status taken away against their wishes. When approximately 6,000 aboriginal people returned to Canada after having volunteered for service overseas in World War II, veterans' and church groups mounted a campaign for a public examination of Indian policy (Dickason 1997:304). Thus it happened that from 1946 to 1948, while Newfoundland was debating entry into Confederation, the joint Senate/House of Commons Committee on the Indian Act was holding hearings. These hearings were in the minds of federal officials as they deliberated the question of how to deal with the aboriginal peoples of Newfoundland and Labrador (Tompkins 1988:22).

These hearings were one of the first occasions on which Canadian aboriginal peoples were consulted on policies which affected them. They resulted, soon after Newfoundland entered Confederation, in the dismantling of the more restrictive features of the Indian Act. Initially, a 1951 amendment severely curtailed the minister's power, increased the degree of self-determination at the level of the reserve, and repealed the restrictions on individual movement and aboriginal

cultural practices. A few years later, Indians were given the vote and allowed to drink.

A further indication of the changes under way in the late 1940s can be seen in the way that the Indian Act was bypassed when federal administration was extended to the Inuit. Prior to 1912, when a rise in the value of white fox led to the opening of a network of arctic trading posts, only those Inuit living close to the tree line had regular contact with Europeans. Then in 1924 an attempt was made to amend the Indian Act to include the Inuit. In 1927 responsibility for Inuit living outside provincial boundaries was given to the government of the Northwest Territories, an appointed arm of the federal government. According to Dickason, this was because of a feeling that since the Indian Act had failed Indians, another approach should be tried for Inuit (1997:359). However, there was another large Inuit population living in northern Québec, and while the federal government wanted the province to administer them, in 1939 the Supreme Court ruled that they were "Indians" within the terminology of the British North America Act, and therefore a federal responsibility. Like the Inuit of the NWT, the Québec Inuit were not placed under the Indian Act. The RCMP handled day-to-day administrative tasks for both groups, while the federal Department of Health and Welfare provided health services. In 1953 the Inuit of the NWT and Québec were both placed under the authority of the new federal Department of Northern Affairs and Natural Resources, and eventually each Inuit community came under the direction of a federal "Northern Service Officer". Since the Indian Act was withheld from them, in theory if not always in practice, they had all the rights and responsibilities of full Canadian citizens.

NEWFOUNDLAND PRE-CONFEDERATION POLICY TOWARDS ABORIGINAL PEOPLES

In contrast to the rest of Canada, Newfoundland never had a special agency to deal with aboriginal affairs. Until the late 19th century, European settlers were almost exclusively concerned with the coastal fishery. Because the Beothuk and the Mi'kmaq on the island, and the Innu in Labrador, spent most of the year in the interior, contacts with these groups were infrequent, and government action towards them was conducted on a sporadic and piecemeal basis. A peace and friendship treaty was signed in 1763 by the British with a group of Mi'kmaq at Codroy Island, Bay St. George, apparently an extension of an earlier treaty with Nova Scotia Mi'kmaq (Janzen and Bartels 1990). When conflicts arose between settlers and either Beothuk or Inuit, governors sometimes issued proclamations ordering that the aboriginal people were to be well treated, but little was done by way of enforcement. Mi'kmaq communities had regular contact with French and later Newfoundland Catholic priests, and by the late 19th century Labrador Innu

received sporadic summer visits from Catholic missionaries, initially from the diocese of Québec, later from Harbour Grace. What little information the colonial government had about aboriginal peoples came from missionaries, explorers and traders.

In the case of the Inuit, who inhabited the coast of northern Labrador, and who thus came into contact with European traders and fishermen, the British transferred most administrative responsibilities in the late 18th century to Moravian missionaries. Land grants were given in northern Labrador for the establishment of mission settlements, where the Inuit were encouraged to establish themselves, away from European settlers and with access to missionary schools and trading stores. In the mid-19th century settlers began moving into areas near these Inuit communities, many marrying Inuit women, converting to the Moravian church, and adopting some Inuit cultural practices.

There were no land cession treaties with any of the aboriginal groups in Newfoundland and Labrador, and nothing comparable to the Canadian system of reserves was created. While most Newfoundland governors paid scant attention to aboriginal peoples, Sir William MacGregor (1904-1909) was a notable exception. He visited the outlying parts of Newfoundland and Labrador, including several aboriginal communities. In 1907 he took the unusual step of intervening in the granting of a timber cutting permit for an area on the coast of Labrador near Davis Inlet, on the grounds that it might have infringed on the hunting of aboriginal people. In 1908 his government gave grants of land to the Mi'kmaq, the best documented one being at Conne River (at a site previously laid out in 1872 by the government Geological Surveyor, Alexander Murray). There is some evidence that other grants were intended for the Mi'kmaq at Bay St. George and Gambo. However, only the first of these land grants was actually established.

The demise of the Beothuk in the 1820s spawned the story that the Mi'kmaq had been brought to Newfoundland by the French to kill the off the Beothuks. Although without any foundation in fact, the story may reflect settler resentment towards the Mi'kmaq for assisting the French in attacks against British fishing settlements on the Avalon (Upton 1977). By the late 19th century Mi'kmaq on the west coast found themselves stigmatized, together with the French, by other settlers, mainly because the two groups shared the Catholic faith, leading to their both being labelled "Jack-a-Tars". In the face of such discrimination, many Mi'kmaq intermarried with settlers, anglicized their names, and did what they could to hide their aboriginal background. Many of their descendants still suffer the negative effects of this stigma.

In a few cases official attention was directed specifically at aboriginal people. In 1882 a law was passed prohibiting any aboriginal person from possessing alcohol. In 1911, following an incident in which Labrador Inuit were taken for display at an international exhibition in Chicago and abandoned there, a law was passed prohibiting the taking of an aboriginal person out of Labrador. In the late

19th century the colonial government began to pay for the rations that traders occasionally gave out to starving Inuit. However, those Innu who came to the coastal trading posts were assumed to be the responsibility of Canada, and it was to Ottawa that the bill for any rations issued was sent, on the theory that the Innu were from the Canadian side of the border. This practice continued until the settlement of the Labrador boundary dispute in Newfoundland's favour in 1927. As trappers began to penetrate the Labrador interior in the early 20th century, they sometimes came into conflict with the Innu. Any such incidents that reached a justice of the peace were generally settled in favour of the settlers (Tanner n.d: 36).

It was not until the Commission of Government period (1934 - 1949) that regular direct government involvement began with aboriginal peoples. A new police force, the Rangers, was given responsibility for distribution of welfare in Labrador. In 1942 the Hudson's Bay Company withdrew from its trade stores on the north coast of Labrador, forcing the government to take them over. In 1948, while negotiations for entry into Confederation were under way, the store at Davis Inlet was closed, and the Innu who traded there were moved 250 miles north to Nutak, where they were paid to cut firewood for sale at Hebron. However, the Innu were dissatisfied and walked back to Davis Inlet, forcing the government to reopen the store there.

By the time of Confederation the three groups in the province recognized as aboriginal each faced quite different situations. The largest of these was the Labrador Inuit, who according to official figures numbered about 699. They were settled for part of the year in communities. Their economy combined subsistence hunting with commercial fishing, and they continued to occupy their traditional lands. Many were intermarried with people of European descent, some of the descendants of whom today constitute the Labrador Metis. While some Inuit had recently migrated to the upper Lake Melville area for employment at the new air base, those living on the coast retained much of their language and culture and, through their councils of elders, maintained some influence over the governance of their communities. Officially there were about 272 Innu, who hunted and trapped for most of the year over large stretches of Labrador, visiting coastal posts for short periods. However, game had been scarce for some years, forcing some of them to rely occasionally on emergency rations from the government. Apart from their conversion to the Catholic religion, they did not have extensive contact with outsiders, and their traditional culture, social organization and language were largely intact. According to official figures there were 535 people of aboriginal descent on the island, almost all of them Mi'kmaq. While their life as full-time hunters and trappers was no longer viable, many worked as guides or in the new forest industries. They lived in communities along the south and west coasts and in central Newfoundland. Reports by Newfoundland officials of the day claimed the Mi'kmaq to be fully integrated into the general population. In fact, some of these communities, like Conne River, Flat Bay and Glenwood, were predominantly

of Mi'kmaw descent, and in them the Mi'kmaw language was still spoken and some of the culture was practiced. Other Mi'kmaq were living in larger communities alongside non-Mi'maq with whom they were intermarried, and where Mi'kmaw language and culture were under threat.

THE NATIONAL CONVENTION AND THE PLACE OF ABORIGINAL PEOPLES IN CONFEDERATION

In 1946 Labradorians, including aboriginal people, voted for the first time when they, along with other Newfoundlanders, elected delegates to the National Convention. The Convention's discussions began in St. John's in September, and on June 25 of the following year a delegation from the Convention travelled to Ottawa to discuss potential terms of entry. Initially, the position of both the Canadian and Newfoundland sides on the question of the administration of aboriginal peoples was clear: the federal government would be fully responsible for the delivery of services to them, as they were elsewhere in Canada. A sub-committee was set up to negotiate the "Position of Indians and Eskimos in Labrador in the Event of Union" (a title reflecting the official view that the Mi'kmaq were no longer a distinct aboriginal population), consisting of J. R. Smallwood, Rev. Lester Burry and T.W.G. Ashbourne of the Newfoundland delegation, and R. Hoey and C.W. Jackson of the Public Service of Canada. The proceedings of the *Meetings between Delegates from the National Convention of Newfoundland and Representatives of the Government of Canada* (October 10, 1947), state that:

In the event of Newfoundland becoming a province of Canada the Indians and Eskimos of Newfoundland would be the sole responsibility of the federal government and, under existing legislation, would be entitled to the benefits and would be subject to the regulations including the following.

1. Free education. Provided through day schools and boarding schools. Where boarding schools already exist subsidies ranging from \$165.00 to \$300.00 per pupil per year are paid.
2. Free medical services including hospitalization.
3. Family allowances paid on the same basis as white population and applied in the normal way wherever possible.
4. Land reserves for settlements and trapping lines are set up, by arrangements with the provincial government.
5. Free conservation projects, fishing projects, handicrafts and other aids are undertaken in their behalf.
6. The federal government sets up trading posts, where there are no satisfactory arrangements for trading by private interests. This is done to help Indians eventually to buy and market co-operatively themselves.

7. Indians and Eskimos are exempt from land tax and tax on income earned on the reserve.
8. An Indian is not entitled to vote, unless he has satisfied the conditions referred to in item 11, or unless he has served overseas in time of war in one of the services.
9. An Indian is not allowed to use intoxicating liquors.
10. Indians do not receive Old Age Pensions but relief for the aged is provided.
11. The right of franchise and full citizenship, if the Indian in question can prove that he is no burden on the province or municipality. In the event of an Indian assuming the status of full citizenship, he ceases to be regarded as an Indian and is no longer entitled to special benefits accorded to Indians. (National Convention of Newfoundland 1947:Appendix xi)

After they had returned to St John's, J.R. Smallwood steered the Ottawa delegation's report through the National Convention. Smallwood listed the various services provided by Canadian federal departments, to show off the benefits to be gained from Confederation, and on November 20 aboriginal people were mentioned briefly:

Mr. Smallwood: Indian Affairs Division - we have no such thing in Newfoundland. [...] There happen to be 300 Indians in Labrador, and many more Eskimos, and [...] in Canada, for the purposes of administration, Indians and Eskimos are treated as Indians for purely legal reasons. We have many hundreds of them. [...] The Government of Newfoundland has no such division or department for the welfare of the Indians or Eskimos, of whom there are many hundreds in Labrador.

Mr. Bailey: Is it true that we look upon our Indians as not being citizens?

Mr. Smallwood: Any Indian in Canada can apply for citizenship. Many prefer not to because they get more benefits by not being citizens. *In Newfoundland we never allowed them to be citizens. Until this National Convention we never even gave them a vote.* All we gave them was a bit of dole. (Hiller and Harrington 1995:808 My emphasis)

Clearly, both sides were at that point agreed that Confederation would bring direct federal administration .

Serious consideration of terms of union resumed after the second referendum of July 22 1948. It was then that the first serious questions were raised about the proposed federal administration of aboriginal peoples. In a memorandum of September 8 1948, T.L.R. McInnes of the Indian Affairs Branch, noted the lack of any special status or privileges previously accorded to the new province's aboriginal people, and concluded that it would be unwise to extend the Indian Act to them (NAC, RG 22, Vol 7, File 34). On September 20 the Deputy Minister of Mines and

Resources, H.L. Keenleyside (whose authority included the Indian Act) asked the Interdepartmental Committee on Newfoundland "what will be the future political and civil status of Indians and Eskimos covering the franchise, income and other taxes, legal rights and political and related matters, including any rights to State pensions or allowances of any kind?" (Tompkins 1988:20-21). Finally, on September 25 the Acting Director of the Indian Affairs Branch sent a memo to the deputy minister, asserting that all aboriginal people in Newfoundland and Labrador had full citizen's rights. He suggested that either the Indian Act might have special conditions attached to it so as not to infringe on these rights, or the aboriginal people should retain their existing status, and be administered as part of the general population of the new province, subject to some special financial arrangement. He suggested postponement of the application of any legislation until the Newfoundland authorities had been consulted (NAC, RG 22, Vol 7, File 34).

On October 7, a Newfoundland official gave the federal government the opening it needed. K.J. Carter, Secretary for Natural Resources, acting without any authority to negotiate terms of entry, met with officials of the Department of Mines and Natural Resources. Carter's involvement with aboriginal issues at that point was overseeing the operation of the government stores in northern Labrador. According to a federal memorandum, Carter observed at this meeting that "it would be a retrograde step to bring the Indians and Eskimos under the restrictive provisions of the Indian Act." Consequently, he proposed that the new province should continue to administer the aboriginal people, with grants being provided for the purpose by the federal government (Tompkins 1988:21-22). Keenleyside jumped at the opportunity, finding additional reasons to support continuation of Newfoundland administration, including the claim that both the Indians and the Inuit were racially mixed with the white population. In point of fact, at the time there was virtually no intermarriage among the Labrador Innu. Keenleyside also noted that "the present goal of Canadian Indian policy is enfranchisement" and that this had been brought out at the hearings of the joint Senate and House of Commons Committee on the Indian Act (*ibid*:22).

The official Newfoundland delegation was not told of these developments until November 15, less than a month before the final terms of entry were signed, at a meeting between J.R. Smallwood and Major MacKay, the Acting Director of the Indian Affairs Branch. Smallwood expressed his disapproval of Carter's unauthorized intervention. However, he was persuaded by the arguments for not extending federal jurisdiction, and for continuing Newfoundland's administration of aboriginal peoples, supported by federal grants (*ibid*:23-24). But no agreement was signed regarding the proposed funding arrangement, and when the final terms of entry were signed on December 11, 1948, they contained no mention of aboriginal peoples. Under term 3, given the lack of any alternative agreement, the division of powers in s. 91(24) of the 1867 BNA Act applied, meaning that the federal

government had exclusive jurisdiction over both the Indians and Inuit of the new province (Moss 1988).

It was not until 1950 that it became public knowledge that the federal government was not directly administering aboriginal peoples, as had previously been announced. On March 28, the St. John's *Observer's Weekly* carried an article entitled "Ottawa Decides Nfld. Indians will have Full Canadian Citizenship. Provincial Authorities to Take care of Micmacs' Relief, Education and Social Services at Federal Expense." The story came to light with the tabling of federal departmental estimates, which indicated that funds were being transferred to Newfoundland for the welfare expenses of aboriginal peoples. The article began, "The government has decided against 'the retrograde step' of putting the Indians of Newfoundland on the same restricted citizenship basis as the other Indians of Canada by bringing them under federal legislation." The subtitle and the article's use of "Micmac" in reference to Labrador were obvious errors. The article went on to note that the only Indians of concern to Ottawa were the few in Labrador, and that it was felt that special administration facilities were not necessary to serve them.

In the initial years of Confederation federal payments for the administration of Labrador aboriginal people were sporadic, fell outside any formal agreement and were limited mainly to welfare. Not until 1954 were two agreements reached, one on federal responsibility for health and hospital services, another on some limited cost-shared capital expenses. According to Brice-Bennett, the latter funds were used in 1956 and subsequently in the relocation of the people of Nutak and Hebron, and in 1957 for the first twelve houses build with government assistance at Sheshatshit (1986:35). Only in 1965 was a general cost-sharing agreement reached to cover general municipal and other services. A unique feature of this arrangement was that funds were targeted at anyone living in certain designated communities, rather than to aboriginal people as such. Elsewhere in Canada, funding for aboriginal people is directed to individuals who are designated as having a distinctive legal status, either "registered Indians" as defined by the Indian Act, or Inuit, who were officially identified as such by a special "Eskimo" tag number. In 1973 the Mi'kmaq community of Conne River was added to the list of designated communities funded under this arrangement, although it was not extended to the other Mi'kmaq communities.

ANALYSIS

Fifty years ago the new province of Newfoundland took the option of administering its aboriginal population, rather than adopting the Canadian model of direct federal control. The argument used publicly for not doing this was that it would have been "a retrograde step", and that provincial administration was the superior policy option. Today, with the benefit of hindsight, it is difficult to make a convincing

case that Newfoundland, by following this distinctive policy, with the aboriginal peoples receiving less federal funding as a result, has benefited from this decision. It has certainly not, for example, resulted in any fewer of the kind of economic and social problems afflicting aboriginal peoples here than in the rest of Canada.

There have been several examinations, both official and otherwise, of Newfoundland's system of aboriginal administration. The report of the Royal Commission on Labrador (1973) was remarkable for its forthright criticism of this arrangement, which it demonstrated to be well below the level of fiscal support provided by the federal government to aboriginal peoples in comparable areas of Canada. However, its recommendations on this matter were not followed. A decade later Lee and Williamson (1983) critically examined Newfoundland's administration of the federal-provincial agreements for aboriginal people in Labrador. Budgell (1984) has looked particularly at government involvement with the Innu. Tompkins (1988), with access to unpublished federal sources, investigated the decision not to exercise federal jurisdiction at the time of Confederation, while Moss (1988) looked at the constitutional aspects of the same issue. McRae, a Dean of the Faculty of Law, University of Ottawa, (1993) revisited the whole issue, this time to address the specific complaints made by the Innu that their human rights had been violated, a view with which he concurred. Most recently Tanner et al. (1994) have reviewed the issue as part of a report on aboriginal governance in Newfoundland and Labrador for the Royal Commission on Aboriginal Peoples.

All these sources have been to some degree critical of the form of administration eventually provided for the aboriginal people in Newfoundland after Confederation. However, an official in the provincial Native Policy Office, Albert Jones, has argued that Newfoundland had no choice in this matter since it would not have been possible for federal jurisdiction to be extended to the province's aboriginal peoples (Jones 1993). Jones argues that since there were neither treaties nor reserves in Newfoundland, there were no "Indians" within the definition contained in the Indian Act. "As far as Newfoundland is concerned The Indian Act was irrelevant." He further argues that to have subsequently registered Indians in Labrador under the Indian Act would have effectively disenfranchised them, which "could not have had any legal effect beyond mere fantasy" (*ibid*:69).

It must first be noted that Jones' points only relate to "Indians," that is, to the approximately 300 Labrador Innu at Confederation, given that at the time the Mi'kmaq were treated by both sides as having already been assimilated. None of Jones' arguments relate to the approximately 700 Inuit, the largest aboriginal group in the new province. Direct federal administration could have been extended to the Labrador Inuit in 1949 without any of the difficulties that Jones mentions, in the same way, for example, as it was being done around this very time across the border in northern Québec.

As for Jones' specific points relating to Indians, the fact that there were no treaties or reserves does not mean there were no Indians to be formally recognized.

Newfoundland was not the only part of Canada where there were no treaties and reserves, but this did not prevent the Indian Act being applied in these places. The lack of any land cession treaties had not prevented the establishment of reserves in the Maritimes, in Québec or in most of British Columbia. Reserves could just as easily have been established in Labrador after 1949. In fact, many of the Québec Indian reserves were not created until this period (Beaulieu 1986), several of them after Newfoundland had joined Canada. Furthermore, the Minister of Indian Affairs had all the authority he needed under the Indian Act to declare new bands in Newfoundland and Labrador (Moss 1988: appendix 3).

On Jones' point regarding the franchise, if depriving Indian people of the vote had been a real concern, an exemption could have been made to the Indian Act in favour of Newfoundland and Labrador Indians. This is a contingency which, as we have shown, federal officials had already considered. After all, a similar exemption had only recently been made for those registered Indians living on reserves who had served in World War II. The Inuit would not have been affected, since those living elsewhere in Canada under federal administration already had the vote. Thus it is difficult to accept at face value the argument that Canada and Newfoundland failed to extend the Indian Act because they feared it would have diminished the existing rights of the aboriginal peoples. As Smallwood had told the National Convention, Labrador Indians had never even voted before 1946. Moreover, this cavalier attitude towards the rights of aboriginal peoples, which Smallwood complained about to the National Convention, was continued under his own government. One of the first pieces of legislation passed by the province barred both "Indians and Eskimos" from the possession of liquor. By its inclusion of the Inuit, this law was more sweeping than similar legislation existing in Canada at the time (Tanner et al. 1996:29). Though under the BNA Act division of powers, only the federal government had the authority to pass legislation specifically targeted at aboriginal peoples, it did not intervene to stop passage of this discriminatory piece of legislation. Thus official federal and provincial expressions of concern over the citizen's rights of Newfoundland's aboriginal peoples must be taken with a grain of salt. They cannot be seen as the fundamental reason that federal administration was withheld.

Canada's motives are actually fairly easy to understand. The aim of its aboriginal policy was assimilation, and serious questions were being raised at the time over whether application of the Indian Act to the Labrador Innu would have been effective in achieving this aim. Moreover, Canada was naturally reluctant to take on the additional fiscal responsibility for the Labrador Innu and Inuit, unless they were obliged to do so, given that the cost of the delivery of government services in this region would have been especially high. After all, they had only just gone to the Supreme Court, unsuccessfully, as it happens, to try to avoid having to take on fiscal responsibility for the Québec Inuit.

On the other hand, Newfoundland's reasons for not insisting on federal administration of aboriginal peoples are more difficult to discern. It is probably significant that the idea first came from the bureaucrat whose responsibilities would otherwise have been taken over. A hint along these lines is to be found in a memo from N.A. Robertson to Paul Martin, dated 19 June, 1950. In explaining that Newfoundland took the view that Native affairs were a provincial matter, he commented that Newfoundland was probably reluctant to part with the Northern Labrador Trading operation (NAC, RG 22, Vol 254, File 40-8-1, Part 3). There may have been also a reluctance by Newfoundland politicians to see the federal government providing aboriginal people with a better level of public services, however limited these might still have been, than the province was able to offer to neighbouring non-aboriginal communities. Moreover, Newfoundland officials were aware that extending federal administration in the form used elsewhere in Canada would have required making a legal distinction between aboriginal and non-aboriginal individuals. Perhaps they feared that this would have created difficulties, especially when applied to the Inuit and Mi'kmaq populations, due to previous intermarriages.

Still, given that the federal government was constitutionally responsible for providing for the administration of aboriginal peoples, if Newfoundland found itself reluctant to accept federal administration, then its negotiators should have been in a position to drive a hard financial bargain, to relieve the federal government of this obligation. That Newfoundland did not do so seems best explained by the fact that, alongside the other issues being negotiated at the time, aboriginal peoples did not command a high priority. Newfoundland negotiators were misled by false assertions that no federal responsibility existed, and fallacious arguments that because there were no existing treaties and reserves, there were no aboriginal peoples to whom the federal government were obligated. In arriving at some alternative funding arrangement, matters were left in the hands of bureaucrats who, without being given any clear political directive, never gave the issue the serious attention it deserved.

This paper was completed before I had the opportunity to consult an important work on the same topic (McLean 1997). McLean documents in detail the legal dimension of Newfoundland's administration of aboriginal peoples, something that is only referred to very briefly in my paper. I am only thankful that the thrust of his analysis supports the thrust of mine and vice versa.

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